

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
ANTHONY BAYAD,)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 04-10468-PBS
)	
JOHN CHAMBER, PATRICIA RUSSO,)	
ANTHONY SAVASTANO, CARL)	
WEISE,)	
Defendants.)	
_____)	

ORDER RE: CROSS MOTIONS FOR SUMMARY JUDGMENT

September 15, 2005

Saris, U.S.D.J.

On May 25, 2005, the magistrate judge issued at Report and Recommendation re: Defendants' Motion for Summary Judgment (Docket No. 65); and Plaintiff's Motion for Summary Judgment (Docket No. 73).

On May 31, 2005, *pro se* Plaintiff made a timely objection. On June 6, 2005, he filed a Declaration submitting "new discovered evidence in support of his motion objecting to the Magistrate Report and Recommendation." Defendants responded to the objections on June 13, 2005, and oppose consideration of the newly discovered evidence.

On or about August 12, 2005, the assigned trial judge recused himself and the case was reassigned. After review of the objections and the Report and Recommendation, I adopt the Report and Recommendation of the magistrate judge. However, the

magistrate judge is more familiar with the record and wrote a thorough opinion. Thus, she is in a better position to evaluate the materiality of the "newly discovered evidence" and to determine whether it should be considered.

Accordingly, I refer the matter back to the magistrate judge only for the purpose of evaluating this new submission.

S/PATTI B. SARIS

United States District Judge